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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/297,040	07/21/1999	PETER MOSE LARSEN	0785.0390004	9201

7590 02/25/2002  
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WASHINGTON, DC 200053934

EXAMINER

ROBINSON, HOPE A

ART UNIT PAPER NUMBER

1653

DATE MAILED: 02/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/297,040			

EXAMINER	
Hope Robinson	
ART UNIT	PAPER NUMBER
1653	17

DATE MAILED:

Please find below a communication from the EXAMINER in charge of this application

Commissioner of Patents

The communication filed on September 12, 2001 is not fully responsive to the communication mailed June 12, 2001 for the reason(s) set forth below. The Restriction Requirement mailed on June 12, 2001 required applicant to elect a single sequence from either Table 1 or 2 for examination on the merits as part of the election of a specific invention. Applicant provisionally elected the invention of Group II. Note that Group II consists of claims 7-13, not claims 7-11 as stated in Paper No.12. It is noted that there was a typo which listed claim number 20 twice instead of claim 21, therefore, a copy of the Restriction Requirement is attached to clarify the record.

Since the above-mentioned reply appears to be *bona fide*, applicant is given a TIME PERIOD of **ONE (1) MONTH** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication should be directed to Examiner Hope Robinson, Art Unit 1653, whose telephone number is 703-308-6231.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703) 308-0196.

A handwritten signature in black ink, reading "Karen Cochrane Carlson" with a stylized "Ph.D." at the end.

KAREN COCHRANE CARLSON, PH.D  
PRIMARY EXAMINER

# Restriction / Election

3710x

Time/Date Contacted

11/10/99 12/21/99 12/21  
checking with client checking requested

Application #

09 297 040

Attorney Docket #

0785-039,6804

Attorney Name

Timothy Shea

Attorney Phone #

202-371-2600

Patent GROUP

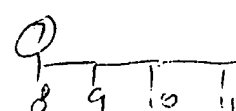
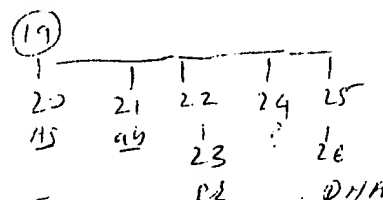
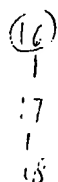
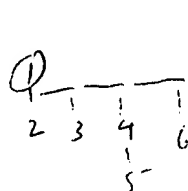
WITH Traverse

WITHOUT Traverse

I	In vivo method of identify diabetes <sup>mediating</sup> protein	1-5
II	Protein	6-11
III	Method of identifying (protein) - in vitro	14-
IV	" - in vivo T <sub>2</sub> Anal	15
V	Transgenic <sup>Non human</sup> mammal	16
VI	Method of screening <sup>composition</sup> T <sub>2</sub> mammal	17-18
VII	Method of treating diabetes AS	19, 24 20
VIII	" " AB	19 24 21
IX	" " D <sub>2</sub>	19 24 22-23
X	" " DNA	19 25-26

Comments: Method of identify (controls)

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***Election/Restriction***

1. This is a Supplemental Restriction Requirement as claims 12 and 13 were  
missed in the previous communication mailed October 4, 2000 in Paper No. 6.  
Therefore, the previous Restriction Requirement has been vacated and the  
following has been instituted. It is noted that applicant elected with  
traverse Group II for examination on the merits in Paper No: 8.

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of  
inventions which are not so linked as to form a single general inventive  
concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to  
this action, to elect a single invention to which the claims must be  
restricted.

Group I, claim(s) 1-6, drawn to an in vivo method for identifying a  
diabetes-mediating protein.

Group II, claim(s) 7-13, drawn to a diabetes mediating protein.

Group III, claim(s) 14, drawn to an in vitro method of identifying a  
protective or deleterious diabetes mediating protein.

If Group II is elected applicant needs to elect one protein from Table

1 or 2 for examination on the merits as the proteins are separate and/or distinct having different structure thus function and have been identified on page 1 of the specification as having differential expression.

5           Group IV, claim(s) 15-18, drawn to a transgenic non-human mammal.  
          Group V, claim(s) 19, 20, 24 and 25, drawn to a method of treating or preventing diabetes using an antisense sequence.  
          Group VI, claim(s) 19, 21, 24 and 25, drawn to a method of treating or preventing diabetes using an antibody.  
10          Group VII, claim(s) 19, 22-25, drawn to a method of treating or preventing diabetes using a protein.  
          Group VIII, claim(s) 19, 24, 25 and 26, drawn to a method of treating or preventing diabetes using polynucleotide.  
          Group IX, claim(s) 27, drawn to a method of identifying a compound  
15          capable of modulating the activity of a diabetes-mediating protein.

3.       The inventions listed as Groups I-IX do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack  
20       the same or corresponding special technical features for the following reasons:

          An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of  
25       categories) A product and a process specially adapted for the manufacture of said product; or 2) A product and a process of use of said product, and a use of the said product; or the said product; or 4) A process and an apparatus or

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means specifically designed for carrying out the said process; or 5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process (MPEP 37 CFR 1.475).

5           The special technical feature of Group I is the identification of a diabetes mediating protein in vivo which requires the transplantation and removal of insulin secreting cells. The special technical feature of Group II is a diabetes mediating protein. The special technical feature of Group III is the identification of a protective or deleterious diabetes mediating  
10       protein in vitro wherein the cells are transfected with a nucleic acid sequence encoding a diabetes mediating protein. The special technical feature of Group IV is a transgenic non-human mammal and the method of using the same. The special technical feature of Group V is a method of treating or preventing diabetes or diabetes related disorders by administering an antisense sequence.  
15       The special technical feature of Group VI is a method of treating or preventing diabetes related disorders by administering an antibody. The special technical feature of Group VII is a method of treating or preventing diabetes or diabetes related disorders by administering a diabetes mediating protein. The special technical feature of Group V is a method of treating or  
20       preventing diabetes or diabetes related disorders by administering a polynucleotide.

          Proteins, nucleic acid and antibody are structurally and functionally different compounds with different uses. Therefore, a method of treating or preventing diabetes or diabetes related disorders by administering these  
25       products are technically distinct. Furthermore, the method of identifying diabetes mediating protein is technically distinct from the transgenic non-human animal because these inventions have different modes of operation,

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functions and effects. Thus, these inventions are technically distinct and have separate uses.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined though the requirement be traversed (37 CFR 1.17(I))

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventor-ship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Hope A. Robinson whose telephone number is (703)308-6231. The Examiner can normally be reached on Monday - Friday from 9:00 A.M. to 5:30 P.M. (EST).

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor Christopher S.F. Low, can be reached at (703)308-2923.


Any inquiries of a general nature relating to this application should be directed to the Group Receptionist whose telephone number is (703)308-0196.

Papers related to this application may be submitted by facsimile transmission. The official fax phone number for Technology Center 1600 is (703) 308-4242. Please affix the Examiner's name on a cover sheet attached to your communication should you choose to fax your response. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG (November 15, 1989).



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Hope A. Robinson, MS 

Patent Examiner